

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

First named inventor: Jacobus Johannes Van Dongen et al.

App. No.: 10/531,106

Filed: April 11, 2005

Title: NUCLEIC ACID AMPLIFICATION
PRIMERS FOR PCR-BASED
CLONALITY STUDIES

Examiner: Samuel C. Woolwine

Group Art Unit: 1637

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

The above-identified application became abandoned for failure to file a timely and proper response to the Office Action mailed on October 19, 2007, which set a 1-month period for response. The abandonment date of this application is December 20, 2007 (i.e., the day after the expiration of the date of the period set for response, plus any extensions of time obtained therefor).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

1. Petition fee
☒ (X) Small entity - fee \$810
The present application qualifies for small entity status under 37 C.F.R. § 1.27.
☐ () Other than small entity - fee \$1,620
2. Proposed response and/or fee
 - a. The proposed response and/or fee to the above-noted Office Action in the form of Notification of Missing Requirements
☐ () has been filed previously on _____.
☒ (x) is enclosed herewith.
3. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. By way of further explanation, and based on reasonable investigation of the circumstances of the delay and information and belief for matters outside the direct knowledge of the undersigned, the circumstances surrounding the delay in response are as follows:

The attorney of record in the application, James Weseman, had been practicing as part of a law firm but had more recently set up practice as a solo practitioner. He hired an individual to help in the office, but this person allegedly was misappropriating office funds and hiding or destroying correspondence, with motivations that are not entirely clear. James Weseman has indicated that he was unaware of the notices mailed by the USPTO on October 19, 2007 (371 Formalities Letter, Notification of Defective Response) and on July 14, 2008 (Notification of Abandonment). This lack of awareness of the letters mailed by the PTO is consistent with and may be explained by the behavior of the individual in Mr. Weseman's office, mentioned above.

The failure to reply to the Notification of Defective Response, which ultimately resulted in the abandonment of the application, occurred prior to substantive examination. It is not unusual for an applicant not to receive substantive correspondence from the PTO for a long time after filing nationally, and a two year gap in communication from the PTO is not unusual. Thus, the applicant was not on notice that a deadline had been set for responding to an Office communication.

The undersigned has reviewed Mr. Weseman's files, and the two pieces of correspondence mentioned above are not in them. The undersigned has done his best to reconstruct the circumstances surrounding the lack of response, as explained above. Regardless of the explanation, it is abundantly clear that there was no intentional lack of response. Mr. Weseman and my client have verified to me that there was never any intent to abandon this application, and the abandonment was an unpleasant surprise to both of them. The abandonment of the application was discovered by the undersigned's office in a routine review of the USPTO records on the PAIR system last on or about March 8, 2010, during a transfer of files to new counsel. An investigation into the circumstances was immediately commenced, together with research into the best course for reviving the application. Following the investigation, preparation of a sequence listing, revised drawings, amendments to the specification, client review, and completion of the response submitted herewith were commenced and completed in a diligent manner.

- (X) Please charge any additional fees or credit overpayment to Deposit Account No. 11-1410.
- (X) Return prepaid postcard.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated:

4-30-10

By:



Ned A. Israelsen
Registration No. 29,655
Attorney of Record
Customer No. 20,995
(619) 235-8550